

ESTTA Tracking number: **ESTTA390708**

Filing date: **01/28/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053419
Party	Defendant LT Biosyn, Inc.
Correspondence Address	LT BIOSYN, INC 3406 POMONA BLVD POMONA, CA 91768 UNITED STATES
Submission	Answer
Filer's Name	Jen-Feng Lee
Filer's e-mail	jflee@ltpacificlaw.com, ktanji@ltpacificlaw.com, dhsu@ipfirm.us
Signature	/jflee/
Date	01/28/2011
Attachments	answer-jl01.pdf ( 4 pages )(121009 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No.: 3126856  
Date of Issue: August 8, 2006  
Mark: MEGAGRO

W.A. INDUSTRIES, INC.,  Petitioner,  vs.  LT BIOSYN, INC. Registrant.
--

Cancellation No.: 92053419

**REGISTRANT'S ANSWER  
TO PETITION FOR CANCELLATION**

**REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION**

Registrant, LT Biosyn, Inc., by and through its undersigned counsel, hereby responds to the unnumbered allegations in the petition for cancellation as follows:

Registrant denies the trademark "Megagro" was wrongfully awarded to Registrant. Registrant denies that the trademark "Megagro" should be canceled and made available for Petitioner to reclaim.

Registrant admits the allegations within the "Factual information from TESS" to the extent said "Factual information" matches with the records of U.S. PTO.

Registrant admits Petitioner applied for the trademark "Megagro" before September 6, 2005, to the extent such prior act of attempting to register comports with the records of U.S. PTO. Registrant denies it should have known that from Petitioner's prior application that "Megagro" was allegedly in use since July 1, 2001, as a "plant growth hormone/stimulator for domestic use on domestic plants."

Registrant admits the classification and description of the trademark applications, to the extent they comport with the records of U.S. PTO. Registrant is without sufficient information to admit or deny Petitioner's legal conclusion of exactly the same.

Registrant is without knowledge or information sufficient to form a belief as to Petitioner's ownership of the domain names [www.mymegagro.com](http://www.mymegagro.com) and MegaGro.com and therefore denies the same.

Registrant denies it should have been aware it was marketing a product name that allegedly was in use by Petitioner.

Registrant is without knowledge or information sufficient to form a belief as to the reason why Petitioner's trademark was denied and therefore denies the same.

Registrant admits the statements made in its application.

Registrant denies there is no conceivable way that it was not aware of Petitioner's product "Megagro" when it filed its application.

Registrant denies that it should not have been awarded this trademark.

Registrant denies it willfully made false statements in applying for this trademark as to its belief that no other person had the right to use the mark in commerce.

Registrant denies that the trademark of Megagro should be reassigned to Petitioner.

### **AFFIRMATIVE DEFENSES**

1. Upon information and belief, Petitioner is precluded by the doctrine of laches from cancelling Registrant's 3126856 registration.

2. Upon information and belief, Petitioner is precluded by the doctrine of estoppel from cancelling Registrant's 3126856 registration.
3. Upon information and belief, Petitioner is precluded by the doctrine of acquiescence from cancelling Registrant's 3126856 registration.
4. Registrant expressly reserved its right to assert additional affirmatives during the course of this proceeding.

### **PRAYER FOR RELIEF**

Registrant respectfully requests the Board to rule against Petitioner, to deny any relief sought by Petition, and to dismiss the proceeding, with prejudice.

Respectfully submitted,

**Dated:** January 28, 2011

/jfllee/

---

Jen-Feng (Jeff) Lee  
Kenneth Tanji, Jr.  
Attorneys for Registrant,  
LT Biosyn, Inc.  
LT Pacific Law Group LLP  
17800 Castleton Street #383  
City of Industry, CA 91748  
Tel: 626-810-7200  
Fax: 626-810-7300

## CERTIFICATE OF SERVICE

The undersigned Attorney hereby certifies that a true copy of the foregoing REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION was served by depositing a copy of same in the United States mail, first class postage prepaid, to the following address on January 28, 2011:

Matt Aven  
W.A. Industries Inc.  
236 Stanton Court West  
Buffalo Grove, IL 60089

/jflee/

Jen-Feng Lee